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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/139,927 08/26/98 KATRINECZ

A P-01701-US0

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EXAMINER

HUSAR, S

ART UNIT

PAPER NUMBER

2875

DATE MAILED:

10
05/09/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/139,927

Applicant(s)
Katrinecz et al.

Examiner
Stephen F. Husar

Group Art Unit
2875



☒ Responsive to communication(s) filed on Feb 18, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-26 is/are pending in the application

Of the above, claim(s) 11-14 and 23-26 is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 4, 5, 7-9, 15, and 18-21 is/are rejected.

☒ Claim(s) 2, 3, 6, 10, 16, 17, and 22 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Election/Restriction

1. Claims 11-14 and 23-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.
2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).
3. Applicant's election with traverse of the election of species requirement in Paper No. 9 is acknowledged. The traversal is on the ground(s) that there is a reasonable number of species which would not impose a serious burden. This is not found persuasive because a reasonable number of patentably distinct species will be considered upon the allowance of a generic claim which they depend from.

The requirement is still deemed proper and is therefore made FINAL.
4. Below is an action on the merits of claims 1-10 and 15-22 indicated by applicant as readable on Species 1- Figure 2.

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,7,15,19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Everett, Jr. See Figures 1-3.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 4,5,8,9,18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Everett, Jr. in view of Muurinen. Everett, Jr. shows the invention substantially as claimed except for the luminescent sheets of different colors as set forth in claims 4,8, and 18 and the tinting of keys with different colors as set forth in claims 5,9, and 21. Muurinen shows that it is known in the art to use luminescent sheets of different colors to provide different colors for the various keys in an illuminated keyboard such as Everett, Jr., see column 5, lines 1-20. Further, Muurinen discloses making the keys of a translucent material of different color to indicate different functions when illuminated, see column 5, lines 25-38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use both tinted translucent keys as well as different color luminescent sheets in Everett, Jr.'s illuminated keyboard as taught by Muurinen for the purpose of providing different color illumination for the different functions of the various keys of the keyboard.


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Allowable Subject Matter

10. Claims 2,3,6,10,16,17, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Husar whose telephone number is (703) 308-1932.

SFH
5/5/00


Stephen F. Husar
Primary Examiner
Art Unit 2875